

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MIKE SHALES, JOHN BRYAN Sr., AL
OROSZ, DAN BREJC, TOBY KOTH and
VERN BAUMAN as Trustees of THE
FOX VALLEY LABORERS' HEALTH AND
WELFARE FUND,**

and

**MIKE SHALES, JOHN BRYAN Sr., AL
OROSZ, TOBY KOTH, VERN
BAUMAN and DAN BREJC as Trustees of
THE FOX VALLEY LABORERS' PENSION
FUND,**

Plaintiffs,

v.

**BUESING BROTHERS, INC., an Illinois
corporation and DAVID BUESING,
individually,**

Defendants.

Case No. 11 C 6844

Judge John W. Darrah

PLAINTIFFS' MOTION FOR ENTRY OF AN AGREED JUDGMENT

Plaintiffs MIKE SHALES, JOHN BRYAN Sr., AL OROSZ, DAN BREJC, TOBY KOTH and VERN BAUMAN as Trustees of THE FOX VALLEY LABORERS' HEALTH AND WELFARE FUND ("Welfare Fund"), and MIKE SHALES, JOHN BRYAN Sr., AL OROSZ, TOBY KOTH, VERN BAUMAN and DAN BREJC as Trustees of THE FOX VALLEY LABORERS' PENSION FUND ("Pension Fund"), (Welfare Fund and Pension Fund known jointly as "The Funds"), by and through their attorneys, Dowd, Bloch & Bennett, respectfully move this court for entry of judgment on all counts, in the form of the attached agreed judgment, against Defendants BUESING BROTHERS, INC. (hereinafter "Defendant Company") and DAVID BUESING,

individually (hereinafter “David Buesing”). In support of this motion, the Plaintiffs state as follows:

1. The Funds filed this lawsuit against David Buesing and the Defendant Company for delinquent reports and contributions due to employee fringe benefit funds under Section 515 of ERISA, 29 U.S.C. §1145, for failure to provide a bond as agreed, and for default on a Promissory Note.

2. The Funds filed their Complaint on September 27, 2011, seeking the following relief:

- (a) Count I seeks payment of delinquent contributions from Defendant Company, and from David Buesing for March 1, 2010 through the present pursuant to his personal guarantee. Count I is brought under the Employee Retirement Income Security Act of 1974, as amended ("ERISA") Section 515, 29 U.S.C. §1145, and the Labor Management Relations Act ("LMRA") Section 301, 29 U.S.C. §185.
- (b) Count II seeks delinquent dues contributions from Defendant Company and David Buesing, as unpaid wages under the Illinois Wage Payment and Collection Act.
- (c) Count III seeks delinquent dues contributions Defendant Company and David Buesing, as wages wrongfully converted.
- (d) Count IV seeks enforcement of Defendant Company's obligation to obtain a bond in the amount of \$5,000.00.
- (e) Count V seeks a judgment on a defaulted Promissory Note, signed jointly by Defendant Company and David Buesing, for which the remaining principal balance is \$32,779.80.

3. The parties have negotiated a settlement to this case which includes a payment plan embodied in an Agreed Judgment. The parties have placed their signatures on the Agreed Judgment and a copy is attached. The Agreed Judgment resolves all counts in the Complaint.

WHEREFORE, for the reasons stated above, MIKE SHALES, JOHN BRYAN Sr., AL OROSZ, DAN BREJC, TOBY KOTH and VERN BAUMAN as Trustees of THE FOX VALLEY LABORERS' HEALTH AND WELFARE FUND, and MIKE SHALES, JOHN BRYAN Sr., AL OROSZ, TOBY KOTH, VERN BAUMAN and DAN BREJC as Trustees of THE FOX VALLEY LABORERS' PENSION FUND respectfully request that the Court enter the attached Agreed Judgment Order on All Counts.

Respectfully Submitted,

/s/ Josiah A. Groff

Josiah A. Groff

One of Plaintiffs' Attorneys

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March 15, 2012